

Office of the State Auditor
Division of State Audit

North Dakota
Corn Utilization Council
Fargo, North Dakota

Audit Report for the Two-Year
Period Ended June 30, 2006
Client Code 61400

Robert R. Peterson
State Auditor



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October 9, 2006

Honorable John Hoeven, Governor

Members of the Legislative Assembly

Jocie Iszler, Executive Director
North Dakota Corn Utilization Council

Transmitted herewith is the special-purpose financial statement audit of the North Dakota Corn Utilization Council for the two-year period ended June 30, 2006. The Office of the State Auditor has the statutory authority to determine the contents of state agency audit reports. The Office of the State Auditor worked with the Legislative Council and the Office of Management and Budget (OMB) to develop the contents of this audit report. The primary goal was to provide the Legislative Audit and Fiscal Review Committee, other legislators, and state officials with the information they need to monitor the fiscal affairs of state agencies.

The review of the North Dakota Corn Utilization Council's internal control and compliance with laws and regulations governing the agency disclosed four reportable conditions. Those conditions concerned segregation of duties; executive session meetings and minutes; closing packages; and expenditures.

The Office of the State Auditor would like to thank the North Dakota Corn Utilization Council for the cooperation we received during our audit.

Sincerely,

Robert R. Peterson
State Auditor

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INDEPENDENT AUDITOR'S REPORT

Honorable John Hoeven, Governor

Members of the Legislative Assembly

Jocie Iszler, Executive Director
North Dakota Corn Utilization Council

We have audited the special-purpose statements of revenues and expenditures of the North Dakota Corn Utilization Council for the two-year periods ended June 30, 2006 and 2004. These financial statements are the responsibility of the management of the North Dakota Corn Utilization Council. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards, and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

The accompanying special-purpose financial statements were prepared to provide state decision makers, including the Legislative Audit and Fiscal Review Committee, with a comprehensive overview of the North Dakota Corn Utilization Council's operations. The revenues and expenditures are reported as discussed in the first note to the financial statements. These special-purpose financial statements are not intended to be a presentation in conformity with generally accepted accounting principles.

In our opinion, the special-purpose financial statements referred to above presents fairly, in all material respects, the revenues and expenditures of the North Dakota Corn Utilization Council for the two-year periods ended June 30, 2006 and 2004, in conformity with the basis of accounting described in the first note to the financial statements.

Our audits were made for the purpose of forming an opinion on the special-purpose financial statements taken as a whole. The statement subsequent to the notes is presented for purposes of additional analysis and is not a required part of the special-purpose financial statements of the North Dakota Corn Utilization Council. The statement subsequent to the notes has been subjected to the auditing procedures applied in the audit of the special-purpose financial statements and in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

In accordance with *Government Auditing Standards*, we have also issued our report dated October 9, 2006 on our consideration of the North Dakota Corn Utilization Council's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grants.

This report is intended solely for the information of the Governor, Legislative Audit and Fiscal Review Committee and management of the North Dakota Corn Utilization Council and should not be used for any other purpose. However, this report is a matter of public record and its distribution is not limited.

Robert R. Peterson
State Auditor

October 9, 2006

NOTES TO THE SPECIAL-PURPOSE FINANCIAL STATEMENT
For The Two-Year Periods Ended June 30, 2006 and 2004

Note 1 - Summary of Significant Accounting Policies

The responsibility for the special-purpose financial statement, the internal control structure, and compliance with laws and regulations belongs to the management of the North Dakota Corn Utilization Council (Council). A summary of the significant accounting policies follows:

A. Reporting Entity

For financial reporting purposes, the Council includes all funds, programs, and activities over which it is financially accountable. The Council does not have any component units as defined by the Government Accounting Standards Board. The Council is part of the state of North Dakota as a reporting entity.

The Council was established with the authority to contact and cooperate with any person for market maintenance and expansion, utilization research, transportation, and education; accept donations of funds, property, services or other assistance from any source; and provide educational and informational materials. This is accomplished through the levying of an assessment on all varieties of corn grown in the state, except sweet corn and popcorn, or sold to a designated handler. The amount of the levy is one-quarter of one percent of the value of a bushel.

The Council and the North Dakota Corn Grower's Association (Association) agreed upon a policy in which the Association's Board of Directors will be the designated advisory board of the Council.

The Council has a close working relationship with the Association and Dakota Renewable Fuels. These relationships are further explained in Note 2 to the financial statement. The special-purpose financial statement includes only activities of the Council, which is one department that has one division. The Council is responsible for and is funded under a continuing appropriation.

B. Reporting Structure

The financial statement includes all activities of the reporting entity as defined above. These activities are funded from fund 270, the Corn Council fund. The statement of revenues and expenditures is a combined statement to give the users an overview of the agency's activity.

C. Basis of Accounting

Revenues and expenditures on the statement of revenues and expenditures are principally reported on the modified accrual basis of accounting, which are generally accepted accounting principles (GAAP) for governmental fund types.

Under the modified accrual basis of accounting revenues are recognized when susceptible to accrual (i.e., measurable and available). Measurable means the amount can be determined, available means due and collectible within the current period or soon enough thereafter to be

used to pay liabilities of the current period. Revenues are considered available if they are collected within 30 days after fiscal year end. Expenditures are recorded when goods or services are received. Exceptions include principal and interest expenditures which are recorded when due; compensated absences which are recorded when paid; and, claims and judgments.

There can be differences between revenues and expenditures reported on the state's accounting system and those reported by the Office of Management and Budget in the state's CAFR in accordance with GAAP. Examples of these include:

1. Loan receipts and loan disbursements are accounted for as revenues and expenditures on the state's accounting system (and at times are budgeted as expenditures).
2. Revenue reported on the statement of revenues and expenditures can differ from GAAP revenues because certain receivables are accrued for GAAP purposes while they were not recorded as revenue on the state's accounting system when they are received after the apply-back period.
3. Certain transfers are sometimes recorded as revenues and expenditures on the state's accounting system.
4. Expenditures recorded on the state's accounting system do not report expenditures relating to capital lease and other financing arrangements.

D. Other GAAP Reporting Differences

GAAP financial statements would include a balance sheet by fund type and account group. Revenues and expenditures would also be reported by fund type. GAAP financial statements would also provide more complete note disclosures. This type of information is available in the state's comprehensive annual financial report and the Office of Management and Budget's combining statements by department.

For this report, revenues and expenditures are reported on a departmental basis to give an overview of the Council's operations. All revenues and expenditures are included.

Note 2 - Related Parties

The Association is a related party of the Council. The Council contracts with the Association for promotional activities and administrative services. The Executive Director of the Council is also the Executive Director of the Association. The Association reimburses the Council for their portion of the Executive Director's salary. The Association employs one administrative assistant who shares time between the Council and the Association. The Council reimburses the Association for their portion of the salary.

For fiscal year 2005, the Council paid \$54,720 for administrative services, \$21,780 for membership dues for the Association directly from assessments received from producers, and \$34,774 was paid for other activities including promotional services and office rent payments to the Association.

For fiscal year 2006, the Council paid \$29,500 for administrative services, \$24,350 for membership dues and \$7,934 was paid for other activities including promotional services.

The Association paid the Council \$7,285 in fiscal year 2005 for their portion of the Executive Director and Communication Specialist's salary. In fiscal year 2006, the Association paid the Council \$3,480 for their portion of the Executive Director's salary. The amounts were recorded in Other Miscellaneous Revenue.

Dakota Renewable Fuels is also a related party of the Council. They were established as a producer group to establish an ethanol plant in North Dakota. They share an office with the Council and two members of the Council board sit on the board of Dakota Renewable Fuels as well as the Executive Director of the Council. There were no payments made to Dakota Renewable Fuels in fiscal years 2005 and 2006.

Note 3 – Other Significant Items

The Council's deposits at June 30, 2006 were \$315,533. This amount represents approximately 6 months of expenditures.

RESPONSES TO LAFRC AUDIT QUESTIONS

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies.

1. What type of opinion was issued on the financial statements?

Unqualified.

2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?

No. See our findings addressing executive session minutes (finding 06-1, page 11), timely submissions of closing packages (finding 06-2, page 12), and proper payment of expenses (finding 06-3, page 13).

3. Was internal control adequate and functioning effectively?

No. One person basically maintains the North Dakota Corn Utilization Council's records, therefore there is a lack of segregation of duties and the internal control system is very limited. No recommendation will be made since it is not feasible for the North Dakota Corn Utilization Council to implement it. We also noted a finding addressing coding and payment of expenses (finding 06-3, page 12).

4. Were there any indications of lack of efficiency in financial operations and management of the agency?

No.

5. Has action been taken on findings and recommendations included in prior audit reports?

There were no recommendations included in the prior audit report.

6. Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.

Yes, a management letter was issued and is included on page 15 of this report, along with management's response.

LAFRC AUDIT COMMUNICATIONS

1. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, contingent liabilities, or significant unusual transactions noted. The Executive Director of the North Dakota Corn Utilization Council is also the Executive Director of the North Dakota Corn Growers Association, which is a related party of the North Dakota Corn Utilization Council. As noted in a January 30, 1991 Attorney General memo to state agencies and institutions, this could lead to the possibility of creating a potential conflict of interest and questions concerning the proper performance of public duties.

2. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The North Dakota Corn Utilization Council's financial statement does not include any significant accounting estimates.

3. *Identify any significant audit adjustments.*

None.

4. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

5. *Identify any serious difficulties encountered in performing the audit.*

None.

6. *Identify any major issues discussed with management prior to retention.*

This is not applicable for audits conducted by the Office of the State Auditor.

7. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

8. *Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance and HRMS are high-risk information technology systems critical to the North Dakota Corn Utilization Council.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON
COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF SPECIAL-PURPOSE
FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT
AUDITING STANDARDS**

Honorable John Hoeven, Governor

Members of the Legislative Assembly

Jocie Iszler, Executive Director
North Dakota Corn Utilization Council

We have audited the special-purpose financial statement of the governmental activities and the major fund of the North Dakota Corn Utilization Council as of and for the two-year period ended June 30, 2006, and have issued our report thereon dated October 9, 2006. We conducted our audit in accordance with auditing standards generally accepted in the United States of America, and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered North Dakota Corn Utilization Council's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide assurance on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect North Dakota Corn Utilization Council's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. The reportable condition noted above is that there is no segregation of duties. However, no finding will be separately reported, as it is not feasible to obtain proper segregation of duties due to the size of this entity. We also noted one other matter that we have included in the Management Letter on page 15 of this report.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be

reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe the reportable condition described above relating to segregation of duties is a material weakness.

Compliance

As part of obtaining reasonable assurance about whether North Dakota Corn Utilization Council's financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed three instances of noncompliance that are required to be reported under *Government Auditing Standards* and which are described in the accompanying schedule of findings, recommendations, and agency's response as findings 06-01, 06-02, and 06-03.

This report is intended solely for the information of the Governor, Legislative Audit and Fiscal Review Committee, and management of the North Dakota Corn Utilization Council and is not intended to be and should not be used by anyone other than these specified parties.

Robert R. Peterson
State Auditor

October 9, 2006

FINDINGS, RECOMMENDATIONS, AND AGENCY'S RESPONSE
For The Two-Year Periods Ended June 30, 2006 and 2004

EXECUTIVE SESSION MEETINGS AND MINUTES (Finding 06-1)

The North Dakota Corn Utilization Council does not have minutes for all executive session meetings. NDCC 44-04-19.2, part 4 states that minutes of an open meeting during which an executive session is held must indicate the names of the members attending the executive session, the date and time of the executive session was called to order and adjourned, a summary of the general topics that were discussed or considered that does not disclose any closed or confidential information, and the legal authority for holding the executive session.

Executive session meetings are not being electronically recorded. NDCC 44-04-19.2, part 5 states that all meetings of the governing body of a public entity that are not open to the public must be recorded electronically or on audiotape or videotape.

Also, the Council is holding closed executive session meetings for purposes not in compliance with North Dakota Century Code (NDCC). For example, closed meetings were held to discuss the check writing policy and salary increases. NDCC 44-04-19.2, part 1 states that a governing body may hold an executive session to consider or discuss closed or confidential records.

RECOMMENDATION:

We recommend that:

1. If an executive session is necessary to conduct closed or confidential business then the meeting be recorded and documented properly in compliance with state law.
2. Executive session should be called for business that is closed or confidential as provided for in state law.

North Dakota Corn Utilization Council's Response:

The ND Corn Council agrees. The term "Executive Session" will not be assigned in the minutes to times during the board meeting when staff is asked to leave when the board is discussing personnel issues relating to the other employee but the board meeting is not closed to the public.

CLOSING PACKAGES (Finding 06-2)

We noted problems with submissions of closing packages during both fiscal year 2005 and 2006.

- The fiscal year 2005 Miscellaneous Receivables closing package was submitted 10 days late.
- The fiscal year 2006 Miscellaneous Receivables closing package was not submitted until we notified the Council that one needed to be completed with \$120,862 that should have been reported as accrued receivables. The closing package was completed, but it was turned into to OMB six weeks late.
- The Council purchased a copier/fax machine for \$11,271 during fiscal year 2006. A fixed asset closing package was not completed until we notified them and this was also six weeks late.

State agencies are required to submit timely and properly prepared closing packages to OMB to allow the presentation of the state's CAFR report in compliance with Generally Accepted Accounting Principles.

RECOMMENDATION:

We recommend that the Council prepare all required closing packages in a complete and timely manner.

North Dakota Corn Utilization Council's Response:

The ND Corn Council agrees and is preparing a master calendar with due dates for accounting. The staff person responsible for completing the closing packages was new to the procedure and will be more aware of due dates next time.

EXPENDITURES (Finding 06-3)

We encountered various problems during our test of expenditures and payments to the executive director. We noted:

- Seven instances of account coding errors out of 22 test items (32%).
- No receipts attached for \$39.78 of the charges on the October 2004 US Bank credit card statement.
- Charges on the US Bank credit card for staff meals and meeting meals. We were unable to verify that the amounts did not exceed the amounts allowed by state law because there was no listing of who attended the meal. NDCC 44-08-04 states that employees of the state may make claim for meals while engaged in public duty away from the employee's normal working and living residence. NDCC 44-08-03 states that no employee or representative of the state may make a claim for travel expense, while engaged in public business, in an amount in excess of that allowed by law. All state employees and non state employees should complete a travel voucher for meals, lodging, etc.
- Late fees and finance charges paid on the Office Max credit card. We noted this in October 2005 and in other months as well.
- Sales tax paid on purchases made with the Office Max credit card. NDCC 57-39.2-04 subsection 6 states that all gross receipts from all taxable sales are exempt from sales tax if the purchase is made by the state of North Dakota or any of its agencies.

Good internal controls dictate that accounts are properly coded and expenditures be based on adequate supporting documentation. This requires the support be maintained and attached to the voucher. Additionally, efficient and effective business practices dictate that vendor payments are processed within allowed time frame so that all late fees and interest payments are avoided. Failure to follow proper internal control and business procedures results in misstated financial information and the loss of funds which could be used to further program objectives.

RECOMMENDATION:

We recommend that:

1. Expenses are properly recorded with the correct account code;
2. All receipts are attached to the voucher before it is paid;
3. Vouchers are entered in to the PeopleSoft system in a timely manner so no late fees and finance charges are incurred and sales tax not be paid at the time of purchase;
4. Documentation is made for group meals and meals only claimed when in compliance with NDCC.

North Dakota Corn Utilization Council's Response:

The ND Corn Council agrees, particularly in regards to recommendations 2, 3, and 4. The matter of the "correct" account code presents difficulties for the Council as a commodity group in that the Council's budget categories as a promotional group are quite different from those of a state agency with an appropriated budget. The Council will do its best to code correctly.

DETAILED COMPARATIVE STATEMENT OF REVENUES AND EXPENDITURES**Departmental Information****For The Two-Year Periods Ended June 30, 2006 and 2004**

	Fiscal Years 2006-2005	Fiscal Years 2004-2003
<u>REVENUES:</u>		
Corn Assessments (net of refunds of \$84,969 and \$57,137)	\$ 1,025,620	\$ 1,103,881
Interest on Investments	7,627	2,437
Other Miscellaneous Revenue	30,058	41,160
Total Revenues	<u>\$ 1,063,305</u>	<u>\$ 1,147,478</u>
<u>EXPENDITURES:</u>		
Salaries and Benefits	\$ 193,735	\$ 157,159
Operating Fees and Services	416,666	370,794
Miscellaneous Supplies	18,864	18,930
Travel	84,430	43,731
Professional Development	39,860	38,917
Rentals/Lease - Building/Land	16,584	
Equipment over \$5000	11,271	
Supply/Material-Professional	11,122	819
Office Supplies	5,337	409
Postage	6,063	1,411
IT-Communications	6,482	(1,003)
Fees - Professional Services	27,681	24,962
Printing	4,537	7,629
Insurance	914	1,747
IT Contractual Services and Repairs	877	
Repairs	635	
Grants, Benefits, and Claims	275,855	310,581
Total Expenditures	<u>\$ 1,120,913</u>	<u>\$ 976,086</u>
Revenue Over/(Under) Expenditures	<u>\$ (57,608)</u>	<u>\$ 171,392</u>

MANAGEMENT LETTER (INFORMAL RECOMMENDATIONS)

October 9, 2006

Ms. Jocie Iszler, Executive Director
North Dakota Corn Utilization Council
1325 23rd St. S.
Fargo, ND 58103-3723

Dear Ms. Iszler:

We have performed an audit of the North Dakota Corn Utilization Council for the two-period ended June 30, 2006, and have issued a report thereon. As part of our audit, we gained an understanding of the North Dakota Corn Utilization Council's internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted a certain condition we did not consider reportable within the context of your audit report. This condition relates to areas of general business practice or control issues that have no significant bearing on the administration of funds entrusted to the North Dakota Corn Utilization Council. We do, however, want to present our recommendation to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if this recommendation has been implemented, and if not, we will reconsider its status as non-reportable condition.

The following presents our informal recommendation.

PURCHASE CARDS

Condition Noted:

The Corn Council is using two credit cards which are in the name of the North Dakota Corn Growers Association.

Informal Recommendation 06-5:

We recommend that if the North Dakota Corn Utilization Council feels it needs a purchasing card, they begin using the state's purchase cards.

North Dakota Corn Utilization Council's Response:

The ND Corn Council agrees and will switch to using a state PCard for Council business as soon as possible.

I encourage you to call me at 239-7289 if you have any questions about the implementation of recommendations included in your audit report or this letter.

Sincerely,

John Grettum, CPA
Audit Manager